IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 26468 of 2006(A)

PETITIONER:

PAUL C. VARGHESE, DRIVER,
K.S.R.T.C, KOTHAMANGALAM DEPOT.,
KOTHAMANGLAM, ERNAKULAM DISTRICT.

BY ADV. SRI.VAKKOM N.VIJAYAN
SMT.VINITHA PRASANNAN
SRI.P.ANIYAN
SMT.REENA.C.STEPHENSON
SRI.A.S.SACHIN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. KERALA STATE ROAD TRANSPORT CORPORATION, REPRESENTED BY THE MANAGING DIRECTOR, TRANSPORT BHAVAN, THIRUVANANTHAPURAM.

3. THE EXECUTIVE DIRECTOR, KERALA STATE ROAD TRANSPORT CORPORATION TRANSPORT BHAVAN, THIRUVANANTHAPURAM.

4. THE COMMISSIONER FOR GOVERNMENT EXAMINATIONS, THIRUVANANTHAPURAM.

BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 26468 OF 2006 A

Dated this the 31st May, 2007

JUDGMENT

Petitioner challenges Ext.P4 and seeks a direction to respondents 2 & 3 to correct the date of birth of petitioner in his service records from 25.11.1953 to 3.8.1954 on the basis of Ext.P3.

2. Petitioner's date of birth in the SSLC Book was corrected as per Ext.P3 dated 27.9.2005 from 25.11.1953 to 3.8.1954 in the School records. Petitioner applied with the corrected date of birth in the SSLC by Notification dated 9.11.2005. Petitioner had made an earlier application. Admittedly, petitioner entered service on 22.7.2000. There is no dispute that the Government Order, G.O.(P) No.45/91/P & ARD dated 30.12.1991 is applicable to correction of date of birth in respect of the employees of the KSRTC also. In such circumstances, the correction of date of birth could have been carried out on the strength of an application made within five

years from the date of entry in service. Admittedly, the application, going by this criterion, is barred, as the application with the corrected SSLC Book was made only in November, 2005, which is beyond the period of five years stipulated in the Government Order. This is the reasoning which weighed with the authority in Ext.P4. Counsel, however, contended that the petitioner is entitled to make the application beyond five years, in which case the petitioner can make the application before two years prior to the date of his retirement. Counsel relied on Clause (3) of Order dated 30.12.1991. It reads as follows:

> *"3. Still an opportunity can be granted during the initial periods of one's service to make corrections in bonafide cases. Government are pleased to adopt the system followed by Government of India in this matter. They accordingly order in the modification of the existing orders that applications for correction of date of birth if any needed in the case of a Government employee shall hereafter be made within five years of one's entry in service. In the case of those who have already crossed this limit,*

> *One year time from the date of this Order shall be allowed provided they apply beyond the two year period preceding retirement, reckoned with reference to the date of birth as recorded in the Service Book. The applications for correction of date of birth in Service Book shall be submitted to Government in the Administrative Department concerned, through proper channel."*

3. I am of the view that the said benefit is available to those persons who would have already completed five years' service as on the date of the said Order. One year time was granted in respect of such persons from the date of the Order with the proviso that it should be before two years of his retirement. As far as the petitioner is concerned, he has entered service much after the date of the said Order which means that as far as the petitioner is concerned, the Clause applicable is the Clause which permits an employee to make an application for correction of date of birth within five years from the date of entry in service. In such circumstances, petitioner may not be justified in relying on the provision enabling application to be

made within one year, as it is not applicable to the petitioner. In such circumstances, I find no reason to interfere with the impugned Order and the Writ Petition is dismissed.

K. M. JOSEPH, JUDGE

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